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U.S. Appln. No. 09/989,188

REMARKS

By this amendment claims 2 and 47 are cancelled and claims 1, 3-5, 8, 9, 12, 13, 16, 20 and 23 are amended. Support can be found in the specification as noted in more specific discussion below and in the claims as originally filed. There is no new matter. Entry of these amendments is deemed proper.

Objection to claims

At paragraph 2, claims 1 and 5 are objected to as lacking explanations for acronyms. Parenthetical explanations of acronyms are provided by amendment. Reconsideration and withdrawal of this objection are respectfully requested.

Rejections under 35 U.S.C. §112

At paragraph 3, claims 14 and 15 are rejected under 35 U.S.C. §112, first paragraph. The Office Action alleges that monoclonal antibodies recited in the claims require a supporting declaration. A declaration believed to obviate this rejection is attached. Reconsideration and withdrawal of this rejection are respectfully requested.

At paragraphs 4 and 5, claim 47 is rejected. Claim 47 is cancelled. Reconsideration and withdrawal of this rejection are respectfully requested.

At paragraph 6, the Office Action sets forth a rejection of claims 1-20 and 47 under 35 U.S.C. §112, second paragraph. Under the first bullet point the Office Action suggests insertion of correlative statements in claim bodies to tie the preamble to the result accomplished. Such amendments are made in the attached copy of claims. Support for these amendments can be found in the specification, for example, in the claims as originally filed. Reconsideration and withdrawal of this rejection are respectfully requested.

Under the second bullet point the Office Action rejects claims 1-5. The term "derivative" is alleged to be unclear. Claim 5 is amended to recite alternative language for the phrase "VASP derivative". Support for the amendment can be found in the specification, for example at paragraph 39. Zyxin derivatives are described in the specification, for example at paragraph 26. Thus this phrase is clear in view of the specification as filed. Reconsideration and withdrawal of this rejection are respectfully requested.

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Under the third bullet point the Office Action rejects claims 3, 4, 12-20 and 47. Broad and narrow ranges recited within the same claim are alleged to render the claims indefinite. Amendments in form to claims 3 and 4 are believed to obviate this rejection. Reconsideration and withdrawal of this rejection are respectfully requested.

Under the fourth bullet point the Office Action rejects claim 20 for improper dependence. Claim 20 is amended to incorporate language from claim 1 thus obviating the rejection. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection under 35 U.S.C. §103

At paragraph 7, claims 1-10, 12-13 and 16-20 are rejected under 35 U.S.C. §103 as being allegedly obvious over Gertler in view of Reinhard and Evangelista. Applicants respectfully traverse this rejection.

Claim 1 is amended to incorporate subject matter of claim 2 and to distinguish subject matter of claim 3. Claim 3 is amended as an independent claim incorporating subject matter of previous claim 1. Claim 2 is cancelled.

The Office Action cites Gertner, page 23, as teaching modulators of Mena or Ena-VASP. Applicants respectfully assert that teachings of Gertner are being mischaracterized. To one of skill in the art this cited portion teaches purification of proteins, e.g., to make antibodies thereagainst; to make modified peptides, such as synthetic, recombinant or fusion proteins; and mutated proteins. Similarly the teachings at page 28, lines 28-32 are mischaracterized in the Office Action. Rather than testing unknown compositions for modulatory action, Gertner teaches methods of assaying for expression, i.e., protein synthesis, of Mena or Ev1 or quantifying activity of proteins so expressed. Binding partners such as zyxin are suggested as controls in these assays.

Similarly the reference to the teachings at page 24, lines 24-29 appears to stretch Gertner's language by perhaps reading Applicant's teachings into a grander picture. Such use of Applicant's invention in a 35 U.S.C. §103 rejection is improper. Specifically to the skilled artisan, the referenced teachings of Gertner speaks to mutant proteins. See e.g., lines 12-24 speaking to hyperfunctional mutants for use in gene therapy (line 12). The mutant is suggested as a tool to screen for agonists that replace or enhance Mena-profilin binding. Thus substitute compounds such as recombinant or chimeric proteins might be tested for binding ability.

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A solid phase detection system is taught in Gertner, see e.g., page 25 line 29-31, where solid phase purification is taught; and page 25, line 27, where Western blotting is mentioned as a tool in an assay for Mena or Ev1 expression. While Gertner would appear to teach purification and detection methods to the skilled artisan, one cannot say that these teachings teach all the limitations of the instantly claimed invention.

Thus since a reading by the skilled artisan of Gertner cannot properly be said to arrive at the teachings as cited in the Office Action, the combination of references based on Gertner fails to teach or suggest all elements necessary to reject the instant claims.

Reinhard and Evangelista are not alleged in the Office Action to overcome these deficiencies. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Concluding Remarks

The Commissioner is authorized to charge any fees under 37 C.F.R. §1.17(r) or credit any overpayment to Account No. 18-1982.

Applicants respectfully submit that the application is now in condition for allowance and request prompt issuance of a Notice of Allowance indicating such. Should the Examiner believe that an interview could put this application in even better condition for allowance, Applicants invite her to contact the undersigned at 908-231-3776.

Respectfully submitted,


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